

STAFF REPORT

PROPOSED WORKFORCE HOUSING ORDINANCE – DISCUSSION ITEM FOR TOWN COMMISSION MEETING OF JUNE 12, 2024

A. Background

The Town Commission, at its October 4, 2023 meeting adopted Resolution # 84-10--23 declaring Zoning in Progress to allow for the development of regulations for affordable/workforce housing to implement the State mandated **Live Local Act (LLA)**, as well as provide regulation for affordable housing proposed under any program. This declaration was necessary as the Town had no regulations specific to affordable or workforce housing, and also needed to address any incompatibilities with the LLA and Town Comprehensive Plan. The Zoning in Progress is set to expire on September 30th of this year.

During this period Town staff and Town attorney have reviewed other local ordinances, the Comprehensive Plan and other documents, and have prepared an ordinance for the Town Commission's consideration that creates a new chapter in the Town Code "Chapter 65- Affordable and Workforce Housing."

The Ordinance primarily addresses affordable housing that falls into the "Workforce Housing" category. This is defined by four subcategories of low, moderate, upper moderate and medium. The specific ranges are contained in the definition section of the proposed chapter. These are the four income categories the Town would apply, should a project be submitted under the LLA. Attachment A contains a breakdown of the income categories.

The ordinance does not include creation of housing for the affordable categories of very low and extremely low income, as this housing is most often addressed through HUD subsidy programs.

In addition to providing regulations to address the LLA, the Chapter as written addresses a means to offset affordable and workforce housing lost through redevelopment and a Town program with incentives for the production of workforce housing for home ownership. These are discussed in section E. of this report. The Commission may consider the programs at this time or delete and save for future discussion.

To date, the Town is not aware of any developers intending to submit projects under the LLA. However, unless amended, this act will be in effect until October 2033.

B. Live Local Act in brief

The sections of the Live Local Act that relate to zoning are codified in Florida Statute 166.04151 (7). The relevant section is included herein as **attachment B**.

This section mandates that local governments must allow affordable housing projects that meet the LLA in any district that allows commercial, industrial,

or mixed use. For Lake Park this such projects could be located in the C-1, C-2 and C-1B commercial districts, the C-4 and CLIC-1 industrial districts and the mixed use districts of Park Avenue Downtown (PADD), Twin Cities (C-3), and Federal Highway Mixed Use District Overlay (FHMUDO).

Also of relevance to the Town, the statute includes mandates regarding density, height, administrative review.

Thus, the statute authorizes the locations and densities without regard to the compatibility of the proposed development with surrounding properties as required by the Town's Comprehensive Plan and Land Development Regulations, and without regard for the impacts of height, density or intensity on adjacent existing properties. Without regulations, this would result in serious land use conflicts, impacts on and the cost of providing public services, and general welfare of residents and businesses.

Without regulation the implementation of the LLA would be inconsistent with existing objective and policies of the Town's Comprehensive Plan, including specifically Future Land Use Element Policy 5.4 that requires that the Town "utilize such techniques as distance requirements, buffering, landscaping, lower- intensity development, and scale-down requirements to provide appropriate transitions between high density uses and zoning districts having different intensities, densities, and functions."

This session, the legislature clarified some of its sections, most notably that the "highest density" is the density not including any bonus density. However there were no other substantial changes that would alleviate any concerns of the Town.

C. Proposed Town Regulations to Address the LLA

The primary goal of the new chapter is to insure that the Town has in place regulations that would be utilized should any developer propose housing under Florida Statute 166.04151 (7) of the LLA. The proposed regulations would insure the health and safety of any occupants and help to mitigate any impacts due to being located in commercial and industrial use districts. The proposed Chapter 65 establishes a framework under which the Town can consider and process any applications under this statute.

The ordinance has also been drafted such that the regulations would apply to any proposed workforce housing project as well.

Major provisions proposed for Chapter 65

(Reference to applicable proposed chapter section provided in parenthesis.)

- Provides definitions and income ranges of the various categories, typically used when considering who is eligible for "affordable housing", which follow those used by HUD. The Town's definition of "workforce housing" includes the same categories used by the Palm Beach County Workforce Housing Program. (sec. 65-2)

- Specifies which income levels will be used by the Town to address the “affordable housing” requirements set by the LLA to insure that a developer doesn’t only use the highest income level in the affordable category. The Town’s ordinance provides that all four income level ranges in workforce housing must be used. (sec.65-6)
- Requires submittal of a Workforce Housing Opportunity Plan (HOP) that provides specific detail regarding the program being utilized, financing and details of the workforce units, including rental ranges, location, etc. (sec.65-4)
- Provides requirements to ensure the affordable units are substantially similar to market units. (sec. 65-6)
- Sets out requirements to help mitigate the impact of any adjacent incompatible uses and provide for the health and safety of residents living in a LLA project. Some of these include an impact review of adjacent uses, protections such as buffering and setbacks. Open space for recreation is also required. (sec.5-7)
- Sets out process for the mandated administrative review for the LLA projects. Under the Town Code projects would normally follow a Public Hearing Process. However as this does not occur for administrative review, staff has included a requirement for the project to be the subject of a workshop meeting with notice to all properties within 300 feet. (sec.65-9)
- Requires a monitoring plan, annual monitoring reports for duration of affordable units. (sec.65-13)

D. Non LLA Affordable Housing Projects

Requirements of Town Chapter 65 would also apply to ANY project that is proposing “affordable” housing under any federal, state or local developer funding/financial assistance program.

E. Should the Commission desire to include other programs at this time.

As stated earlier, the purpose of the Zoning in Progress was to provide time to establish regulations for affordable housing proposed under the LLA or any other funding program, which will be accomplished through Chapter 65.

However staff also examined two other issues related to the provision of affordable housing for which particular concerns exist- 1) the loss of affordable units through redevelopment and 2) the continuing rental-ownership imbalance. Mechanisms to begin to address these issues are included in the proposed Chapter and summarized below.

Should the Commission wish to pursue these in depth at a later date, they will be removed from the proposed Chapter.

1. Town requirements to mitigate loss of affordable units:

Displaced Affordable Units and the Preserved Affordable Unit program

As existing affordable housing sites are re-developed, there is a concern that the Town will lose a significant portion of its affordable rental units. For example, in the area around 10th Street alone there are approximately 235 affordable units in major apartment complexes (15 + units) with Humani Courts being the largest at 63 units. Please see map in **Attachment C**. There are many smaller apartment buildings or single-family rentals that are not contained in this count.

While some of the properties are in need of redevelopment this poses a dilemma, potentially reducing the opportunity for those that are employed in low wage businesses in Lake Park to live in the Town. It is with this in mind that staff is proposing a mechanism to retain some of the number of units (not the actual units) lost through redevelopment, known as Preserved Affordable Units” (PAUs).

Proposed Section 65-11 mandates that any new project which would result in the removal of ten or more affordable units must include workforce units at an equal number to replace those lost (PAUs) of the projects total number of units. **In return the developer is afforded higher density as a public benefit.** (See below)

Affordable units as a Public Benefit

A major difficulty in establishing a density based incentive program is that the PADD, C-3, and FHMUDO already have a high base density of 48 dwelling units per acre (48 du/acre) and then allow greater density for “public benefits”. For the most part, these public benefits are not defined, leading developers to significantly exceed the base. For example, two PADD projects in review have proposed densities that are 203 units/acre and 335 units/acre.

Most affordable rental units are currently located in the downtown area, within either the PADD, C-1, C-2 or R-2 zoning districts. With the future PADD expansion, most of these units will be in the PADD.

As there are no new incentives to offer in the PADD, staff is proposing that for redevelopment projects within the PADD, creation of affordable units within the new project be categorized as a public benefit. For developments desiring to exceed the base density of 48 du/acre, the replacement of lost units would be required to be the first of any public benefits proposed for the increased density. For rental projects, bonus density units would be provided at a ratio of 3 bonus units for each new affordable unit created. For condominiums or other types of unit ownership projects, bonus density units would be provided at a ratio of 4 bonus units for each new affordable unit created.

Two examples

address	acres	# Units density	Units at PADD 48 du/ac base	Bonus units	Density with PAU bonus
Humani Courts PADD	3.0637	60 (19.60 du/ac)	147 units	60 x 3 = 180 bonus units	327 units = 107 du/acre
938 Northern C-1	.7916	28 (35.37 du/ac)	38 units	28 x 3 = 84 bonus units	122 units = 96.5 du/acre

Monitoring requirements would be the same as other workforce housing programs as set out in the Chapter. This would include both rental and unit ownership projects.

Town Incentive for Workforce Housing Creation

Incentives for Workforce Housing for First-time Home Owners

As part of its effort, Staff reviewed various incentives to encourage the production of workforce housing, particularly homeownership units, in appropriate districts such as multi-family.

Staff reviewed whether any incentives might be possible in the R-2 multi-family districts. At this time, in order to have regulations expeditiously in place, staff is NOT proposing changes such as a bonus density that would require a Comprehensive Plan amendment, therefore single-family districts were not included.

However, staff has proposed four incentives for the creation of workforce homeownership units in the R-2 multi-family district, contained in section 65-12 (c). These incentives would be:

1. Height increase bonus for projects that include workforce housing units for home ownership, increasing height from 2 to 4 stories for those projects. This creates the opportunity for more creative designs, larger units, or even townhomes with first floor garages.
2. Reduction in front yard setback from the 30 feet requirement.
3. Calculation of the existing maximum 19 du/acre (per Comprehensive Plan) for any size lot size at/over the minimum 7500 sq. ft., rather than the manner as set out in the zoning district. This would benefit smaller infill lots such as those ½

acre or less as this would permit 1 to 2 more units than would otherwise be permitted.

4. Waiver from the Town's mobility fee for the workforce units only. (\$0.43/ sq. ft. of unit)
5. Pro-rata reduction in Town's building permit fee, based on the number of workforce housing units created.

(It is noted that the Town may have to "reimburse" the two accounts for any monies lost through the incentives)

Conclusion

Following the Town Commission discussion and directions for any changes, the ordinance will be revised by staff and reviewed by the Town attorney. We are anticipating a July Planning and Zoning Board hearing and August Town Commission hearings. The ordinance would then be adopted in August, in advance of the September 30 expiration of the Zoning in Progress.

Recommendation

For discussion and desired Commission revisions .

ATTACHMENT A



Workforce Housing Program (WHP) 2023 Rents and Incomes Effective July 1, 2023

WHP prices are set annually, based on the provisions of Article 5.G.1.A.3.c.2 of the Unified Land Development Code reflected below, and the following:

2023 PBC Median Family Income: \$98,300 (per HUD)

WHP Income Category			Studio	1 BR	2 BR	3BR	4BR
Low	60-80% of MFI	\$58,980 - \$78,640	\$1,023 - 1,364	\$1,096 - 1,462	\$1,315 - 1,754	\$1,519 - 2,026	\$1,695 - 2,260
Moderate 1	>80-100% of MFI	>\$78,640 - \$98,300	\$1,364 - 1,705	\$1,462 - 1,828	\$1,754 - 2,193	\$2,026 - 2,533	\$2,260 - 2,825
Moderate 2	>100-120% of MFI	>\$98,300 - \$117,960	\$1,705 - 2,046	\$1,828 - 2,193	\$2,193 - 2,631	\$2,533 - 3,039	\$2,825 - 3,390
Middle	>120-140% of MFI	>\$117,960 - \$137,620	\$2,046 - 2,387	\$2,193 - 2,558	\$2,631 - 3,069	\$3,039 - 3,545	\$3,390 - 3,955

Rental Prices for projects approved under the Workforce Housing code adopted August 22, 2019

WHP Income Category			Studio	1 BR	2 BR	3BR	4BR
Low	60-70% of MFI	\$58,980 - \$68,810	\$1,023 - \$1,193	\$1,096 - \$1,279	\$1,315 - \$1,534	\$1,519 - \$1,772	\$1,695 - \$1,977
	>70-80% of MFI	>\$68,810 - \$78,640	\$1,193 - \$1,364	\$1,279 - \$1,462	\$1,534 - \$1,754	\$1,772 - \$2,026	\$1,977 - \$2,260
Moderate 1	>80-90% of MFI	>\$78,640 - \$88,470	\$1,364 - \$1,535	\$1,462 - \$1,645	\$1,754 - \$1,974	\$2,026 - \$2,280	\$2,260 - \$2,543
	>90-100% of MFI	>\$88,470 - \$98,300	\$1,535 - \$1,705	\$1,645 - \$1,828	\$1,974 - \$2,193	\$2,280 - \$2,533	\$2,543 - \$2,825
Moderate 2	>100-110% of MFI	>\$98,300 - \$108,130	\$1,705 - \$1,876	\$1,828 - \$2,011	\$2,193 - \$2,412	\$2,533 - \$2,786	\$2,825 - \$3,108
	>110-120% of MFI	>\$108,130 - \$117,960	\$1,876 - \$2,046	\$2,011 - \$2,193	\$2,412 - \$2,631	\$2,786 - \$3,039	\$3,108 - \$3,390
Middle	>120-130% of MFI	>\$117,960 - \$127,790	\$2,046 - \$2,217	\$2,193 - \$2,376	\$2,631 - \$2,850	\$3,039 - \$3,292	\$3,390 - \$3,673
	>130-140% of MFI	>\$127,790 - \$137,620	\$2,217 - \$2,387	\$2,376 - \$2,558	\$2,850 - \$3,069	\$3,292 - \$3,545	\$3,673 - \$3,955

For information on WHP rents, contact: Michael Howe, Planning Division, at mhowe@pbcgov.org or 561-233-5361

ATTACHMENT B – SECTION 166.04151 OF THE LIVE LOCAL ACT –

B1 =2023 ACT

B2= SUMMARY OF 2024 AMENDMENTS

B-1

166.04151 Affordable housing.—

(1) Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing or linkage fee ordinances.

(2) An inclusionary housing ordinance may require a developer to provide a specified number or percentage of affordable housing units to be included in a development or allow a developer to contribute to a housing fund or other alternatives in lieu of building the affordable housing units.

(3) An affordable housing linkage fee ordinance may require the payment of a flat or percentage-based fee, whether calculated on the basis of the number of approved dwelling units, the amount of approved square footage, or otherwise.

(4) In exchange for a developer fulfilling the requirements of subsection (2) or, for residential or mixed-use residential development, the requirements of subsection (3), a municipality must provide incentives to fully offset all costs to the developer of its affordable housing contribution or linkage fee. Such incentives may include, but are not limited to:

- (a) Allowing the developer density or intensity bonus incentives or more floor space than allowed under the current or proposed future land use designation or zoning;
- (b) Reducing or waiving fees, such as impact fees or water and sewer charges; or
- (c) Granting other incentives.

1(5) Subsection (4) does not apply in an area of critical state concern, as designated by s. 380.0552 or chapter 28-36, Florida Administrative Code.

1(6) Notwithstanding any other law or local ordinance or regulation to the contrary, the governing body of a municipality may approve the development of housing that is affordable, as defined in s. 420.0004, including, but not limited to, a mixed-use residential development, on any parcel zoned for commercial or industrial use, so long as at least 10 percent of the units included in the project are for housing that is affordable. The provisions of this subsection are self-executing and do not require the governing body to adopt an ordinance or a regulation before using the approval process in this subsection.

1(7)(a) A municipality must authorize multifamily and mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development are, for a period of at least 30 years, affordable as defined in s. 420.0004. Notwithstanding any other law, local ordinance, or

regulation to the contrary, a municipality may not require a proposed multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, and densities authorized under this subsection. For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes.

(b) A municipality may not restrict the density of a proposed development authorized under this subsection below the highest allowed density on any land in the municipality where residential development is allowed.

(c) A municipality may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed height for a commercial or residential development located in its jurisdiction within 1 mile of the proposed development or 3 stories, whichever is higher.

(d) A proposed development authorized under this subsection must be administratively approved and no further action by the governing body of the municipality is required if the development satisfies the municipality's land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, height, and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements.

(e) A municipality must consider reducing parking requirements for a proposed development authorized under this subsection if the development is located within one-half mile of a major transit stop, as defined in the municipality's land development code, and the major transit stop is accessible from the development.

(f) A municipality that designates less than 20 percent of the land area within its jurisdiction for commercial or industrial use must authorize a proposed multifamily development as provided in this subsection in areas zoned for commercial or industrial use only if the proposed multifamily development is mixed-use residential.

(g) Except as otherwise provided in this subsection, a development authorized under this subsection must comply with all applicable state and local laws and regulations.

(h) This subsection does not apply to property defined as recreational and commercial working waterfront in s. 342.201(2)(b) in any area zoned as industrial.

(i) This subsection expires October 1, 2033.

ATTACHMENT B-2

SUMMARY OF 2024 AMENDMENTS TO LLA SECTION 166.04151

SB 328 - Amendments to the Live Local Act's Land Use Preemption

SB 328 makes several amendments to s. 125.01055(7) and s. 166.04151(7) of the Florida Statutes which govern the Live Local Act's land use preemption. This land use preemption was designed to facilitate eligible affordable housing developments on parcels zoned for commercial, industrial, and mixed-use by providing favorable use, density, height, and administrative approval standards.

Eligible Zoningg & Applicability

- Amends the phrase “if at least 40 percent of the residential units in a proposed multifamily **rental** development are, for a period of at least 30 years, affordable as defined in s. 420.0004” to “if at least 40 percent of the residential units in a proposed multifamily development are **rental units that**, for a period of at least 30 years, affordable as defined in s. 420.0004.” This amended phrase opens the possibility for a split multifamily ownership and rental development as long as least 40% of the total units are rental *and* affordable.
- Provides that proposed multifamily developments that are located in a transit-oriented development or area, as defined by the local government, must be mixed-use residential to receive approval with the tool and “otherwise complies with requirements of the county’s regulations applicable to the transit-oriented development or area except for use, height, density, and floor area ratio as provided in this section or as otherwise agreed to by the county and the applicant for the development.”

Heightt and Density Allowances

- Newly provides that local governments cannot limit the floor area ratio of a proposed development below 150% of the highest currently allowed floor area ratio on any land where residential development is allowed in the jurisdiction under the jurisdiction’s land development regulations.
- Clarifies that the maximum density and height allowances do not include any “bonuses, variances, or other special exceptions” provided in the jurisdiction’s land development regulations as incentives for development.
- Allows local governments to limit the maximum height allowance if the proposed development is adjacent to, on two more sides, a parcel zoned for single-family residential use that is within a single-family residential development with at least 25 contiguous single-family homes to 150 percent of the tallest building on property within one-quarter mile of the proposed development or 3 stories, whichever is higher.

Additional Provisions

- Provides that each local government must maintain a policy on its website containing the expectations for administrative approval under the tool.
- Reduces the buffer for local governments to “consider” reducing parking requirements from ½ mile of a “major transit stop” to ¼ mile of a “transit stop.” This will establish a lower buffer and encourage reducing parking requirements for projects near any transit stop, not just a “major” transit stop.
- Requires local government to reduce parking requirements by 20% for proposed developments within ½ mile of a “major transportation hub” that have available parking within 600 feet of the proposed development and eliminates parking requirements for a proposed mixed-use residential development within an area recognized as a transit-oriented development or area.
- Provides that proposed developments located within ¼ mile of a military installation may not be administratively approved.
- Provides that the land use preemption does not apply to “airport-impact areas as provided in s. 333.03” and removes the exception for recreational and commercial working waterfront.
- Creates clear criteria for when the preemption does not apply in close proximity to an

airport.

- Clarifies that developments authorized with the preemption are treated as a conforming use even after the sunset of the preemption statute (2033) and the development's affordability period unless the development violates the affordability term. If a development violates the affordability term, the development will be treated as a nonconforming use.
- Provides that an applicant who submitted an application, written request, or notice of intent to utilize the mandate before the effective date of the bill may notify the local government by July 1, 2024, of its intent to proceed under the prior provisions of the mandate.

SOURCE: Florida Housing Coalition

ATTACHMENT C



10TH STREET AREA

233 "Affordable" Rental Units

Buildings with greater than 15 units